ment which was unintentionally or even intentionally erroneous in point of fact, would that statement divest Mexico of her right? The law of estoppet which prevails between individuals in conducting their own affairs has never been, and never can be, applied to the intercourse between nations who are passive, and whose communications with each other are always carried on by agents possessing such measure of capacity and of virtue as they may happen to obtain.

The committee rest their assumption, thirdly, upon the facts as stated by them, that—

"After the assignment of the grant to the present American."

"After the assignment of the grant to the present American holders, the Minister of the United States in Mexico was instructed by his Government to apprize that of Mexico of the desire of this company to commence their work by a thorough survey of the Isthmus; and the Minister was further instructed to make overfrom for a treaty searching to the content of the con ed to make overtures for a treaty securing to the enterprise the joint protection of the two Governments. The Mexican Govoint protection of the correspondence of Mr. Letcher rement, as we learn from the correspondence of Mr. Letcher with the Mexican Minister of Foreign Relations, *made not with the Mexican Minister of Foreign Relations, 'made not 'the slightest opposition in forwarding passports, and issued 'orders to the departments of Oaxaca and Vera Cruz, not only to avoid interposing any obstacles in their way, but, on the contrary, to afford them aid and hospitality.' 'The engineers,' Mr. Letcher adds, 'were accordingly sent, the ports thrown open for their supplies, and more than one hundred thousand dollars have been expended in surveys, opening roads, &c., besides a large sum of money in furnishing mate-

will the Senate look into these papers? They will find that although we have the letter of John M. Clayton, Sec-retary of State, of the date of February 20th, 1850, to Mr. Letcher, our Minister in Mexico, informing him that Mr. Hargous had notified the Department that he was the re-presentative of the claim in this country, and had em-ployed engineers whom he wished to send to Mexico for the purpose of making surveys, and requesting Mr. Clay-ton to give such instructions, yet we have not the letter written by Mr. Letcher to the Mexican Government asking for the passports and instructions; and so we have no evidence whatever of what communication was made, no evidence whatever of what communication was made, and upon what communication by Mr. Letcher to the Mexican Government it was that the passports and the orders to the Governors of Oaxaca and Vera Cruz were given. Without this knowledge, unless the passports which were obtained, and the orders which were issued, recognised the validity of the grant, the transaction implied no recognition of a right. I will not trespass upon the Senate by reading these Spanish passports. They are like all other passports, mere printed circular letters of protection, given by a Mexican consul at New Orleans to foreigners travelling into Mexico. They are such as any American citizen, whether engineer, or any other belonging to New Orleans or to New York, obtains from his own Government whenever he sees fit to go abroad. overnment whenever he sees fit to go abroad. Here is the letter of the Mexican Minister of Foreign

Affairs to Mr. Letcher, which accompanied a copy of the orders issued to the Governors: MINISTRY OF FOREIGN APPAIRS,

MEXICO, APRIL 5, 1850.

ESTERMED SIR: I have the honor to enclose to you a copy of the order of this day, directed to his Excellency the Governor of Oaxaca, for the object which it expresses; another copy of the same will be sent to the commandant general of the said State. he said State.

I hasten to give information of the same; repeating myself your attentive servant, who kisses your hand

J. M. LACUNZA. His Excellency R. P. Lurcuan, &c. And here are the orders themselves :

Mr. Lacunza to the Governor of Oaxaca. Mr. Lacunza to the Governor of Oazaca.

Mexico, April. 5, 1850.

Most Excellent Sir: Several American engineers having been appointed for the purpose of examining the possibility of opening the communication between the two seas, by way of the Isthmus of Tehuantepec; and desirous as is his Excellency the President, during their travels in your State, that they should meet with no embarrassments, but, on the contrary, be treated with all hospitality, he has been pleased to direct that his wishes should be communicated to you, as I now have the honor to do, officially; repeating, at the same time, the assurances of my esteem. ances of my esteem.

God and liberty! Lacus His Excellency the Governor of the State of Oaxaca.

There is nothing in the letter, nor in the orders, which recognises the validity of the Garay grant, or of any title of any assignees under it. It is utterly preposterous to ground upon this act of courtesy and hospitality by the Mexican Minister of Foreign Affairs a recognition of the validity of the grant to Garay, or the assignments of those who claim under him. those who claim under him.

The committee rest their assumption, fourthly, upon

the facts stated by them, as follows: "This is not all: the Government of Mexico at once as "This is not all: the Government of Mexico at once assented to enter into negotiation for the proposed treaty; and a convention for the joint protection of the work thus to be executed by American citizens, as assignees of the Garay grant, was concluded at Mexico in June, 1850, and sent to the United States. To this convention certain modifications being suggested by the Secretary of State at Washington, it was returned to our Minister in Mexico, and the whole terminated by a new convention, signed at Mexico on the 25th of January 1851 with the appropriate President Herrary. This last ary, 1851, with the approval of President Herrera. This last convention was ratified by the Senate of the United States, and returned to Mexico, and finally rejected by the Mexican Congress in April, 1852."

The committee do not mean to be understood-it would they meant to be understood—that the facts that the President of Mexico signed one treaty, which was sent to the United States and rejected by them, and then signed another and sent it to the United States, and it was accepted by them and returned to Mexico and rejected by the Mexican Congress, which had power to reject it, con-stituted a recognition of any fact recited in either of those incomplete treaties. That would be to draw the recognition of the validity of a claim from an attempt to negotiate a settlement of it. All pretence that Mexico has in any way compromised herself by this negotiation will disappear from the case when I shall show the history The first treaty was made during the time of that good, just, and true old man, Zachary Taylor, and in the time of the administration of the State Departmen by that distinguished and accomplished diplomatist and just negotiator, John M. Clayton. Here is the first article of the first draught of the treaty which was sent to Mexico:

"Art. 1. Individuals upon whom the Mexican Government may have bestowed or may bestow the privilege of constructing a road, railroad, or canal across the Isthmus of Tehuantepec, and those employed by them, shall be protected in their rights of person and property from the inception to the completion of the work."

Not only is there no recognition of the American assigness of the Garay grant, and no recognition of that grant itself in this article, but there is a careful exclusion

of any such statement. Here is the fifth article of that treaty of Mr. Clayton's

"Art. 5. In any difference which may arise between the endertakers, either the present or the future, of the work, which may involve the loss of the right to the privilege, the complaining party shall draw up a statement of its pretensions and motives, and a similar statement shall be drawn up by the other party, and both statements shall be submitted to two arbiters who hold no divisoratio around the complete when hold no divisoratio around the complete when hold no divisoratio around the statements. arbiters who hold no diplomatic appointment or commission, and who reside in the Mexican territory. One of these arbi-ters shall be appointed by the holders of the privilege and the other by the Government of Mexico; and these two, in case of disagreement, shall appoint a third, with the qualifications above required, and from the decision of these arbiters there shall be no appeal or recourse whatsoever. Of all other questions which may art e the Mexican tribunals shall take

But then came into power the successors of Gen. Taylor and Mr. Clayton; and then also reappeared Mr. Peter A. Hargous, a merchant, claiming to be the representative of this grant; and then it began to appear that there was a speculation behind this great enterprise, more impor-tant to the Government of the United States, and more objectionable to the Government of Mexico, than the enterprise itself. Here is precious evidence of it: On the 26th day of August, 1850, Peter A. Hargous wrote a letter to the Secretary of State, in which, after reviewing the treaty of Mr. Clayton, which had then been remitted by Mexico duly signed by the Ministers of the two Governments, he said, referring to Mr. Letcher:

"I trust, therefore, that you will pardon me for suggesting that it might be advisable that he should be officially informaed of the movements above adverted to, and instructed to lose no time which can be saved in bringing his negotiation to a

Mr. Webster complied with this request of Mr. Hargous, and made a new draft of a convention, carefully re-

sognising the Garay grant. Here is the first article of it: cognising the Garay grant. Here is the first article of it:

"Axr. 1. The person to whom the Government of Mexico may have granted, or may in future grant, the privileges for constructing a road, railroad, or canal across the Isthmus of Tehuantepec, pursuant to the decrees of that Government of the 1st of March, 1842, 9th of February, 4th of October, and 29th of December, 1848, and 5th of November, 1848; all those employed in the works of construction, and all others who may reside on the territory within the limits defined by the grant according to the terms of the grant itself, shall be protected in their persons and property from the commencement of the work until its completion, and during the period for which the privileges are granted."

The decrees here recited are those which conveyed the grant to Garay. So Mr. Webster rejected the treaty drawn by Mr. Clayton, sent to Mexico and accepted there, which did not recognise the Garay grant, and sent back a treaty which did, in express words, recognise it, and he instructed Mr. Letcher to try to get this treaty adopted by Mexico. On the 22d of October, 1850, Mr. Letcher reported his ill success in these words:

"I submitted to the notice of the Minister of Foreign Re-

Rapublics."

"A further discussion of an hour ca-ued. He othered most obet nate; and acreely to his objections. Wher upon I took the liberty to tell him, in yery plain language, I was not at all satisfied with his opinions or with his reasons, and therefore requested to be heard before the President and his Cabinet upon the points in dispute."

Sir, I should like to see what answer the Minister of

the Secretary of State of this nation, and tell him that he was not at all satisfied with his reasons and his opinions, and demand a hearing before the President and I shall omit the question whether the original grant of Cabinet! What is just and right for one Power is just

"To this he cheerfully agreed; and the next day at 11 o'clock was the time fixed upon for this meeting by the permission of the President. At the appointed moment, I found the President and his Cabinet all in attendance. They gave the President and his Cabinet all in attendance. They gave me a cordial reception, and the most attentive and respectful hearing imaginable for an hour and a half; and upon taking leave I was assured, in the kindest manner, I should have every thing I desired that they could possibly give me." * "The chief arguments urged against the amendments in question appear to be these:

"1. That they infringe upon the sovereignty, the honor, the dignity, and national pride of Mexico.

"2. To adopt them would be at once to paralyze, to disprace and in short to overthow the present Administration.

grace, and in short to overthrow the present Administration.
"That a treaty with such provisions would be rejected by
the Mexican Congress (probably) without a single dissenting
voice, and therefore would be of no use to the United States,
whilst at the same time it would be the ruin of the party in

Mr. Letcher then appears to have tried what virtue there was in threats. Here they are:

"Since the final decision was had, the President and every member of his Cabinet have manifested the deepest concern lest you should be displeased at the result. Gen. Arista, who is the master-spirit of the Government, is exceedingly nneasy." Every day or two a message is sent by some of the members of the Cabinet expressing regrets and hoping I am not dissatisfied. The only answer I have made is, Mexico has compilited a great error.

has committed a great error.

"It may also be proper to add, during the various discussions which took place in relation to the points in dispute, I availed myself of a suitable occasion to say, in the event Mexico refused to enter into a fair treaty for the protection of the enterprise, my Government, in justice to her own citizens, who had made large investments in the undertaking, was determined to take the affair into her own hands."

Now, let us hear the answer of this exotic and windbranch of the ancient and chivalrous family, which, on its native peninsula, once gave laws to both hemispheres. Here it is; and it will remain imperisha-ble as the answer of an oppressed but high-minded and generous people :

"Your Government is strong-ours is weak. You have the "Your Government is strong—outs is weak. You have the power to take the whole or any portion of our territory you may think fit; we have not the faculty to resist. We have done all we could do to satisfy your country, and to gratify you personally. We can do no more. * * What is required of us we cannot grant. If Mr. Webster knew our exact condition, if he knew the precarious tenure by which we hold power, the violence and strength of the opposition, the refractory spirit of the States, and the peculiar prejudices of our people, surely he would not exact such terms."

But Mr. Webster did exact. Castilian pride gave way.
Arists and his Ministers succumbed, and the Tehuantepec treaty, with its odious recitals, was signed. And
now for the result. Hear the report of the Minister, Mr. Letcher:

" LEGATION OF THE UNITED STATES OF AMERICA,
"MEXICO, APRIL 8, 1851.

"Mexico, April 8, 1851.

"Sir: The Tehuantepec treaty, I regret to say, was rejected last night by the Chamber of Deputies, a bare quorum being present, in a few minutes after it was submitted by the Government for consideration, by a vote of seventy-one to one. The result, so far from being a matter of surprise to me, or to any one else in this country, was most confidently anticipated. The few Deputies who were favorably disposed towards the measure, knowing perfectly well that they would be instantly denounced as traitors to their country in case they voted for it, deemed it expedient to absent themselves from the Cham-

it, deemed it expedient to absent themselves from the Chamber when the vote was taken.

"Such was the intemperate and uncompromising hostility to the Garay grant that no Mexican, in or out of the Chamber, not even those who held a direct interest in it, dared to whisper a single word in its support. In fact, the Deputy who voted for the ratification declared his judgment was opposed to it in every particular; but, fearing its rejection might occasion another war between the two countries, he felt compelled to vote for it.

for it.
"It is altogether impossible to make a treaty having the least connexion with the Garay grant."

That is Mr. Letcher's report. And now I ask my honorable friend from Virginia where it is in these negotiations that he finds that Mexico recognised the validity of the Garay grant?

I have no hostility to the Garay grant, or to its as-

signees, or to their enterprise. I therefore shall hold my of making them them in future, instead of endeavoring to bring other United States. Senators to the conclusion that the grant is invalid, or do not show that the American assignees have an existing title to the right to open the Isthmus of Tehuantepec; and, secondly, that they do not show that the validity of the grant has been recognised by Mexico since its abrogation by the Mexican Congress.

Here I might leave the question; but in that case I should leave undone what it is the duty of some Senator

do-exhaust the subject, and present fully the grounds of the votes which must be given against the resolutions

before the Senate. You will perceive that hitherto I have assumed, in this argument, two things: first, that the grant to Garay was signable; and, secondly, that an assignment was made by Garay which has come to be vested in the hands of American citizens. Proceeding upon these assumptions, I ask you to take notice of another important point in the It is indisputable that whatever conditions Salas attached to his decree entered into the assignments when made. Let me show you the conditions imposed by Salas:

"Art. 13. It shall be an express condition, in all contracts with colonists, that they shall renounce the privileges of their original domicil so long as they reside in the country, subject-ing themselves to all the existing colonial regulations which are not in conflict with the present law.

"Art. 14. The enterprise shall submit for the approval of Government all contracts which it shall make for the introduc-

tion of families and laborers, and it shall keep a public and authentic register of all its transactions in respect to all mat-

I have translated these conditions from the record of decree which is before me. Let me show what was the contemporaneous exposition of them given by Salas, and which accompanied the approval of the assignment. Here it is :

"According to the spirit of the aforesaid law, this renunci ation must take place in the most positive and conclusive man-ner on the part of the settlers, so that, whatever circumstances may happen, and whatever measures these may require, neither the settlers aforesaid nor the proprietors may not, in any case, nor for any cause, plead alien privileges, nor any other privileges except those which have been granted, or may be granted, to them by the laws of the country to which both their persons and their properly must be subjected; and without this requisite they will not be admitted."

Here are American citizens claiming the extension of this grant by an assignment which was made upon the express and published condition of an absolute denationalization; and yet we are interposing in their behalf upon the ground of the very privileges of alienship, which they renounced to acquire the rights, and we are claiming rights for those who, if they have an assignment, are held by it to have renounced altogether their citizenship of the United States. We are required to make reprisals of war against Mexico for violating their rights under that very contract. Let us see how in point of fact, the assignees stand in regard to this assignment. You will take notice that no assignment was ever publicly known, or communicated to the Mexican Government before the decree of Salas extending the grant; but after the decrees of Salas, Garay made known to the Mexican Government that before the decree he had made an assignment to Manning & McIntosh, and Snyder & Co. They have never produced that previous assignment to this day. It is not among the papers before us. Whether such a one was ever made, and whether it was fraudulent, whether it contained what they said of it, or not, there is no evidence; but the only evidence they have is a title by an assignment subsequent reciting that they had a transfer made before the decree. Here is the notice which Garay gave to the Mexican Government of the assignment which

he had made to those parties : "With these views, (those concerning colonization,) I succeeded in concluding a contract with the house of Messra. Manning & McIntosh and Snyder & Co., independent of that for constructing a way of communication between the two seas, by which (contract) those gentlemen are to introduce settlers on the lands."

The fifth article in that very deed of assignment recited that Garay did not convey to them, but actually reserved to himself, the right to open the Isthmus, in these words: "That by this transfer on the part of the covenanter, Don José Garny, it is not to be understood that he confers upon

Mesara Manning & McInteeh, and upon Snyder & Co., any right whatever to carry on navigation from one sea to the water." "I submitted to the notice of the Minister of Foreign Relations the several alterations you desired to make to the
Tehuantepes treaty, expressing at the same time the confident hope that his Excellency would find no difficulty in
readily yielding his assent to each and all of them. In replyto this observation he remarked, his Government had been

"Instance to earry on management of the little river
consider her position conserving said grant, it will then to
consider her position conserving said grant, it will then to
consider her position concerning said grant, it will then to
consider her position of consider her position concerning said grant, it will then to
consider her position concerning said grant, it will then to
consider her position of consider her position of
come the duty of this Government to review the existing retions with that Republic, and to demand such measures
adds, as a further and superlative precaution, an additional reservation of non-interference with his privilege
citizens."

that some other assignment had before that time been most severely and shamefully censured for agreeing to the most severely and shamefully censured for agreeing to the most severely and shamefully censured for agreeing to the most severely and shamefully censured for agreeing to the most severely and shamefully censured for agreeing to the severel privilege of constructing a way of communication be-tween the two seas by the way of the Isthmus of Tehnan-tepec." On receiving this note the Mexican Government acted decidedly and promptly, reminding the assignees that that part of the grant was untransferable, and also that the whole grant was extinct; the last extension granted by Salas, like all the preceding ones, having ex-

not upon the points in dispute."

Sir, I should like to see what answer the Minister of any Power on earth would receive who should some to any American citizens may have, they have only the same

Santa Anna to his favorite Don José Garay of the privi-lege of opening the Isthmus was assignable. The Mexi-Cabinet! What is just and right for one rower is and right for another. If we exact justice or courtesy from the strong, we should concede it to the weak. Mr. Letcher obtained his hearing before the President, as will Letcher obtained his hearing before the President, as will I such a question as that should arise in the United If such a question as that should arise in the United States what should we say? The President of the United States every day issues commissions to individuals to perform certain duties. Congress every day pass laws authorizing individuals to build custom-houses, &c. I would like to know who there is in Congress or out of it that would admit that an administrative officer or an architect upon a public building has a contract which he can assign to a foreigner, and thereby convey to a foreign Power the right to tell us that we must execute the contract with

Mr. Downs. I would ask the Senator to state, if this Contract be not assignable, why it was that the Mexican Government declared to Mr. Trist that it was assignable, and that it had been assigned? Is not the Mexican Gov-ernment as competent to decide that question as the

Senate of the United States?

Mr. Szward. If my honorable and very esteemed friend from Louisiana, who argued this case with great ability the other day, had not had his attention diverted, he would have seen that I have already anticipated the question which he has propounded to me. I threw out this view of the subject to show that what Mexico insists upon has at least the merit of plausibility. I ask only that it be so considered. It is enough for my purpose that, according to the view which I have taken, the committee have not shown the validity of the assignment, and

the validity of the title of the claimants.

I ask you now to consider what are the unreason demands which Mexico makes, and which it is supposed that we cannot allow; and I shall take that in the words f the honorable chairman of the Committee on Foreign

of the honorable chairman of the Committee on Foreign Relations, (Mr. Mason:)

"In all the propositions which have since emanated from the Mexican Government, in their proposals inviting new companies to construct this work, they have imposed limitations and restrictions which must discourage all from attempting it, or which would have the effect, if complied with, of leaving that work exclusively in the charge of the Mexican Government. The propositions are of this character: the contractors are required, in the first place, to acknowledge the unqualified sovereignty of Mexico over the transit, and her right to impose any political charges whatever upon persons or property passing over it. They are required to acknowledge a concurrent right in the Government of Mexico to fix the corporate charges. They are required to agree to place their mail steamers under the national flag of Mexico, and all their vessels are to be subject to tonnage and lighterage duties. They are required to agree to munitions of are required to agree to transport no troops or munitions of mar across the Isthmus, except with the express permission of Mexico. They are required to discriminate nations as shall guaranty this monopoly, by deducting twenty-five per cent. from the corporate charges in their favor; they are required to transfer the work at cost to Mexico, and, more than all, those who are there constructing this work are re-quired to renounce their right to the protection of their own Sovernments, and become de facto Mexican citizens."

Now, sir, you see what the whole difficulty is; that what is claimed for these American proprietors is that they shall not be obliged to denationalize themselves, but that Mexico shall be obliged to denationalize herself; that the Congress of the United States, or the citizens of the United States, shall have control over the commerce of the Isthmus in all the particulars which have been reafrom the speech of the honorable Senator. Now, consider the condition of the United States, which I will not portray; consider the present condition of Mexico, which I need not describe; consider the character of the population of the United States and of Mexico, which I need not illustrate; consider the extent of the franchises thus insisted upon, and tell me what result can happen to Mextico by her conceding what is demanded of her, short of a dismemberment, sooner or later, of the Mexican nation, a dissolution of the Federal Union of the States, and the extinction of the Republic of Mexico, even if, while we are here, that extinction has not already come about. Sir, in that case Mexico will not be a self-sustaining Pow er. She must be sustained by somebody. Except the United States, there is no American power that can guaranty the maintenance of a government in Mexico. The United States will not consent that any European Power shall guaranty the preservation of a Government there. The Monroe doctrine, and the traditions cherish-ed by us, prohibit that. What then? As a consequence

these concessions, Mexico must fall into the Mr. President, I began this examination, if not in favor the deductions I make from the case, which I have thus to a result which would enable me to support these claim traced out by history and argument, in a negative form, to wit: First, that the Committee on Foreign Relations therefore, to say that I cannot vote to sustain the resolu tions. I will now briefly review the points made by the committee, in my own order. And first, this point is

made by the committee: "That the United States stands committed to all of its citizens to protect them in all their rights abroad as well as at home, within the sphere of its jurisdiction."

I hope the Senate has considered the length and the breadth of this proposition. I am obliged to ask some modification of it. I am glad to know that I have the support of Mr. Hargous, who has charge of this claim, and also of the late distinguished Secretary of State.
What is the opinion of the New Orleans company upon that subject? Mr. Hargous tells us, in his letter to the late Secretary of State, Mr. Webster, when invoking the

intervention of the Government: "They are aware that in ordinary cases it is not the practice of the United States Government officially to interfer in behalf of citizens of the United States who may complain of the violation of a contract which they may have enterinto with a foreign Government; but, inasmuch as all genera rules have their exceptions, and as the interest of the American Government and public, and especially those of the citicans of the West and Southwest, are largely involved in the success of the Tehuantepec enterprise, they flatter themselves that, in any just complaint they may have cause to prefer against the Mexican Government, they shall receive the "Your answer upon this point especially is respectfully so-icited, and will be anxiously awaited."

Here are these proprietors telling the Government of the United States that they know that what they ask for is an exception to the law of nations, as practised by this Government. There is the honorable Committee on Foreign Relations telling us that the rule is universal. I shall subscribe to this rule with some qualifications, which I will submit to the consideration of the Senate. The first qualification is, that the rights of a citizen, which the Government is bound to protect, are just rights

not unjust ones; that they are not unjust, unconscien

tious, or immoral rights.

Mr. Mason. What is a just right?

Mr. Seward. I say just rights in distinction from legal rights. According to the honorable Senator's notions and mine, there are things that are right because they are declared by law. There are things that are right whether they are declared by law or not. The second qualification is, that the rights which the Government is bound to protect must be certain and absolute, not un-certain or doubtful. Third, that the right of the individual to the protection of his Government is subordinate to the general welfare and interest of the State. Upon this point, as the honorable chairman of the committee will give some authority, I will repose myself on Mr. Webster's reply to the letter of Mr. Hargous, which I have already submitted:

"Should the event prove otherwise, however, it cannot be doubted that in such a case, in which the interests of individuals would be obviously subordinate to those of the public, any other means which might be necessary for your protection would be

The protection which a Government owes to its citizen is a protection according to circumstances—a protection consistent with public justice and the public welfare. The Government may discharge itself of its obligations in some cases, by leaving the individual to maintain his donestic rights in the domestic courts, and it may leave the citizen who has rights under a foreign Government to seek redress from that Government in its courts or otherwise. There never was and never will be a Government which can be under an obligation to its citizens by which one of them having, for the purpose of commerce or speculation, made a contract with the subjects of another country, or with the Government of another country, can ipso facto involve the nation to which he belongs in reprisals or war. to compel that Government to execute its contract. That would be to enable one citizen, at the suggestion of his own interest or caprice, to put in jeopardy the interest, welfare, happiness, or safety of all other citizens. Least of all can there be any such principle of the law of nations applied in a case where the contract is disputed, or of loubtful morality or validity. This disposes of the first

proposition of the committee.

Their second proposition is:

"That should Mexico within a reasonable time fail to reconsider her position concerning said grant, it will then become the duty of this Government to review the existing rela-

This, also, is a corollary from the first proposition, and falls with it. Moreover, if it be consistent with the dignity and honor of this nation to abide by its treaties treaties solemnly and sacredly made—then it is consisten with the duty of the United States, and it is their boun den duty, either to tender to Mexico, or to wait till Mexico shall tender to them, a proposal to submit this dispute to an arbitration consisting of two persons, one of whom shall be named by each Power, or to the arbitration of the contraction of the contract tion of a foreign nation. This disposes of the resolution

Mr. President, I am approaching the end of this long discussion, and I shall dismiss now Don José Garay, his grant, his assignment, his assignees, and their grievances. I come to a second ground, which has been assumed, not so much in the report as in the speeches of the honorable Senators who support these resolutions, viz: That the United States have a public interestain opening the Te-huantepec communication as an oceanic connexion, which renders it the duty of the United States on this occasion to adopt the resolutions submitted to us upon this sub-ject. I have to say, in the first place, that as any defect in the Garay claim, or in the assignments of it, cannot be cured by the existence of a coincident public interest on the part of the nation, so also this public interest which is thus brought before us is not aided at all by the Garay claim. If it is the right of the United States to compe Mexico to enter into a stipulation to open the way, that right is absolute and independent of the Garay grant, whether that grant be valid or otherwise. Upon what ground is it that the Committee on Foreign Relations claim this right? Hear the honorable chairman of that

claim this right? Hear the honorable chairman of that committee:

"I come now to look at this question in another point of view. I lay it down, without hesitancy and without fear, that we have a right to a way across Tehuantepec. According to public law, this Government may demand of Mexico a way across Tehuantepec; and Mexico cannot refuse it unless she becomes disloyal to the general compact of nations. What is a right of way? Every one is familiar with that. It pertains to individuals in life as it pertains to nations. I understand that vriters upon public law derive it from that primitive state when the entire earth was common to all men, and passage over it was free to all, according to their varied necessities. Such was the nature of this right before government was formed, or the institution of separate property ordained. By these, the right in question was only limited in its exercise; it was not destroyed; and it revives and resuscitates whenever there is a necessity making the way indispensable. It is illustrated in familiar life every day. If I purchase a piece of land so surrounded by the possessions of him from whom it is derived that I have no way out to mill or to market, I may take it, as a right incident to the acquisition. It is a principle resulting from necessity, and is modified as circumstances may require. A way impracticable in its use is the same thing as no way at all; and such is the exact posture of our present way across the northern continent. We purchased California from Mexico, paid a large equivalent for it, and we have in fact no way across our own continent to get to it."

That is the law of nations gives us the right to cross nent to get to it.'

That is the law of nations gives us the right to cross the isthmus of Tehuantepec, and it is an absolute right. As it is by virtue of the higher law, higher than treaties, nigher than the Constitutions of the United States and of Mexico—the law of God, which is a law of necessity—it is a perfect right. I have to say on this argument, in the first place, that when we had such a right, one so perfect, and descending to us so directly from Almighty power and Divine justice, it was most bungling deplomacy to rest that right upon the grant of the Mexican Gov-ernment to Don José de Garay. I have to say, in the se-cond place, that while I might not deny that we have the right to a way across Mexico, there is still another ques-tion which the honorable Senator has not disposed of. I remember a comedy which I saw acted once, in which the parents of two lovers sought to oppose their union under a nutual mistake. It resulted in their flight and marriage, and when they presented themselves for for-giveness, the parents found that just exactly the union which they had desired and studied to bring about was what had taken place, and which they had opposed, unwhat had taken place, and which they had opposed, under the suppostion that each had some other party in view. The father of the groom was obdurate. The father of the bride said, "Well, now, will you not forgive your son? Have you not got your own way after all?" The inflexible parent replied, "Yes, I have got my own way, but I have not got my own way of having it." Now, I ask the honorable chairman of the committee, whether, besides having an absolute right, by the higher law, to the road across Mexico, we have a right to our own way. the road across Mexico, we have a right to our own way

having #? I think not. But, sir, the honorable Senator supposes that this right of way over Tehuantepec inures to us by virtue of a higher law, upon the ground that a portion of our territory is behind Mexico, and another portion before Mexico, and it is necessary for us to pass through Mexico in order to go from one part of our possessions to another, like a farmer who has a right to go to another part of his own farm over another man's lands. I remind he Senator that we voluntarily placed ourselves behind lexico; and I think that if I go and take a farm behind another man's farm, or the soil under his farm, I have no right to reach that new possession by going across, and

Fourthly: At the time we acquired our possessions on the Pacine we applied to Mexico to give us this very right of way across the 1sthmus of Tehuantepec, and she gave us good reasons why she thought she had rather not. We assented and waived the demand, and permitted her to rise from the earth, upon which we had prostrated her, without surrendering this right. Now, I think it is too

late to insist upon it. Fifthly: If our real object in obtaining the right of way across the Isthmus of Tehuantepec is to open an inter-oceanic communication for our own benefit, and for the welfare and benefit of mankind, the right has already been offered for our acceptance, and the offer is still open What has been already quoted proves this. But, for greater certainty, hear your Minister, Mr. Letcher:

"Recently I have had several carnest conversations with Mr. Ramirez regarding the treaty of Tehuantepec. Our interview two nights ago lasted upwards of four hours. His Excellency, upon each occasion, manifested great concert upon the subject, and was evidently very much surprised at my apparent indifference. It is quite obvious he now feels sensibly the responsibility of his position. I listened calmly and patiently to all he had to say. He reiterated, in strong and patiently to all he had to say. He reiterated, in strong language, what he had often previously declared, that the treaty, in its present form, could never be ratified by the Mexican Congress; that any attempt on the part of the Government to favor its approval would end in nothing but its own immediate downfall; that he was sorry to say the feeling own immediate downlast; that he was sorry to say the feeling of his country, at the present time, against the United States, was exceedingly strong, so much so that no one in power could venture to advocate a more intimate association with that country; that he was altogether satisfied the interest of Mexico, and in fact that of the whole commercial world, demanded the contemplated connexion between the two oceans; that, so far from throwing obstacles in the way of that connexion, Mexico was fully prepared to go every reasonable length to secure that great object; that Mexico was poor and oppressed, secure that great object that means was poor and oppressed, but so far as he had it in his power to guard and protect her honor, he was determined she should not only be free from just reproach, but should stand upon elevated grounds before the world, in every particular, in reference to a matter of so much importance; that although she had been and was at this much importance; that although she had been and was at this moment badly treated by many of my countrymen, still, from motives of sound policy, she was disposed—and such was his own sincere wish—to concede to the United States, in preference to any other Power, all the privileges which might be necessary to accomplish the greatest enterprise of the age; but that, in the event of such concession, no allusion must be made to the Garay grant. 'Leave out that grant, say nothing about it, and I am ready,' said he, 'to enter into a treaty with you which I think will be satisfactory to both countries.'"

Hear also, the letter of President Arists of the 15th Hear, also, the letter of President Arista, of the 15th

of April last, to President Fillmore : "Among the differences enumerated by your Excellency "Among the differences enumerated by your Excellency, there is no one which can produce any serious difficulties between the two Republics; for Mexico has always been disposed to consent to the opening of a communication through the Isthmus of Tehuantepee for the free and untrammelled commerce of the whole world; in this respect she agrees entirely with the ideas and principles expressed by your Excellency in your last message to Congress. Her Government has given assurance of this in all its official acts: the explicit and call confirmation of this intention way. Freelisers will have given assurance of this in all its official acts: the explicit and full confirmation of this intention your Excellency will have remarked in the projet for a treaty which the Minister of Relations presented on the 3d of January last to the Minister Plenipotentiary of the United States as a substitute for the treaty then pending, but which presented insuperable difficulties in the way of its being approved. The same feeling now exists; for even after this sentiment had been misunder-

stood by Mr. Letcher on the one side, and reproved by Con-gress on the other, (as shown by rejection of treaty,) as late an yesterday, a bill was introduced into the House of Deputies imposing on the Government the obligation to proceed imme-diately to open the communication by Tehuantepec, and andialely to open the communication by Tehuantepec, and anthorizing it at the same time to make use of all the means that it may judge proper and necessary for the attainment of the object. These facts, presented in an authentic form, prove most indisputably that Mexico, far from opposing this great work, encourages it as much as possible; and most conclusively shows that it cannot be a cause for disagreement between her and the United States.

"But by the side of this merely apparent difficulty there is one which is an available.

one which is so in reality, not from its own intrinsic character, but from the circumstances which are connected with it. These are found in the pretensions advanced by the agents of These are found in the pretensions advanced by the agents of the New Orleans company, who appear to be determined that the opening of the communication shall take place in so other way except under the privilege granted to Don José Garay. This pretension (which Mr. Letcher believes himself bound resolutely to uphold) has caused the utter failure of all pending negotiations by blocking up all the doors to a prudent compromise, it is altogether incompatible with the decree of Congress, which declares the privilege of Garay to have become extinct, in consequence of the illegality of its extension; under such circumstances it was impossible to negotiate a satisfactory treaty, and if negotiated, nothing would have been gained by it, for Congress was determined to rejoct it."

In answer to a suggestion or two I had the boar to all a fundaments and a fundament to all a fundaments of the fundament to the fundament to all a fundaments of the fundament to the fundament fundam

terprise.

"In my despatch of the 29th of October I mentioned that the Minister had used this remark, in substance: 'Mexico is prepared to stand all the consequences that may result from a rejection of the treaty.' I am now pretty well satisfied he meant pecuniary consequences, and nothing more."

[Letter of Mr. Letcher.

Senators, behold here the fundamental error in all these ansactions-the error which might have been, and ought to have been, perceived—a private speculation, with which the Government had nothing to do, combined, mingled, confounded with a great national enterprise—a private speculation, undertaken on public account. A great un-tional interest, brought down to the mire, and polluted by tional interest, brought down to the mire, and polluted by contamination in an association with private speculation. Now, I ask, is it not about time to separate this private speculation from this great national world-wide important concern? Sir, our dignity as well as our interest requires us to review our own position, and not to ask Mexico to reconsider hers; to retrace our own steps; to dissolve our connexion with this New Orleans Company; to dissolve the company of our Government with sneceso dissolve the connexion of our Government with speculators-speculators whether upon the levee upon the sissippi, or upon South street on the East river; to dississippi, or upon South street on the East river; to dismiss them to the remedies afforded by the nation with which they have contracted, which remedies are the only ones they have a right to expect, or in making their contract could have contemplated. Then prosecute this great design of interoceanic communication across Mexico by fair, open, single-handed, single-hearted diplomacy. The Isthmus of Tehuantepec will be opened in good time. It cannot long remain closed against the spirit of the age. The advance of our country and of civilization throughout

The advance of our country and of civilization throughouthis continent assures us that it will be opened. But you want it opened now—you cannot wait. There is no urgency, there is no haste for Tehuantepec. You want first and most a communication which shall bind New Orleans, and Washington, and New York on the Atlantic, with San Francisco on the Pacific. The safety of your country, the safety of its Pacific possessions demands such a communication not over occurs expected to all nasuch a communication, not over oceans exposed to all nations and through a foreign territory occupied by a dis-contented, aggrieved, and probably hostile people, but inland, and altogether through you own country. You want for your own use, for your own commerce, and for the commerce of Asia, a road which shall have the advantage of the best Atlantic and Pacific harbors which can be obtained, with one continuous connexion by land, so that there shall be no necessity for reshipment between the Atlantic and Pacific ports; nor a way between ports yet to be artificially made on the Caribbean sea and on the Pacific coast, with changes from land to water carriage requiring breaking of bulk at least twice in the

If you aim to erect a high commercial structure, you must lay your foundations broadly in agriculture, in mining, and manufacture; and all these within your own domain; and use the resources which God and nature have given to you, and not those which Providence has bestowed upon your neighbors. And you want, for the same reason, a passage across the continent of your own, not shared with any foreign Power, and through your own domain, and not through a foreign domain. If you will be the carriers of Europe and of Asia, if you will be the carriers in even your own interoceanic commerce, you dise within your own temperate zone, not within that tor-rid zone whose heats are noxious to animal and vegetable productions, and, while so deleterious to the articles most abundant and most essential to the subsistence of man, pestilential also to human life itself. This is the nication across this continent which you want. But I shall be told, as I have been told by the advocates of these ill-starred resolutions, that a railroad across our own demain is not feasible. I shall give but a brief an-swer to that—an answer in the letter of an illiterate man, whose experience enables him to bear conclusive testi-

WASHINGTON, FEB. 4, 1853.

SIR: I have the honor of replying as follows to your note of the 2d instant, making certain inquiries regarding the practicability of building, and the best location for the proposed Pacific Railroad, that I think it is perfectly practicable, and the best route will be found by going into the valley of the Rio Grande at Albuquerque, and thence crossing over by the Moqui villages and Little Colorado river to Walker's Pass in the Sierra Nevada, and from there down the San Joaquin where the San Paraisro.

valley to San Francisco.

I have crossed from New Mexico to California by four different routes, namely: Cook's Sonora route, the Salt river This Gough-Nichols contribution route, that recently followed by Capt. Sitgreaves's party, and the old Spanish trail; and the one I have before described Pass (Capt. Sitgreaves's) is, in my opinion, decidedly the best. It is shorter, more direct, and has more timber and level country, fewer mountains, more cultivated, and perhaps more cultivatable land than any other route.

I have trapped on nearly every stream between Cook's route and the Great Salt Lake, and am well acquis

region of country between these places.

Very respectfully, your obedient servant, Hon. WILLIAM H. SEWARD.

I shall be told that if it be feasible, the length of the road is so great as to deter us from attempting it. What is it? Two thousand miles. What are two thousand miles of railroad for the people of the United States to make, who, within eighteen years past, have made twelve thousand miles? The railroads which have been made in the State of New York alone have an aggregate length of two thousand three hundred and one miles, exceeding the distance from lake Erie to the Pacific ocean. And if you add the canals, the chain would reach from the banks of the Hudson river to the shores of the Pacific ocean. The railroads already made in the United States, if drawn out into one lengthened chain, would reach from Liverpool to Canton. The railroads which have been made and are now being made in the United States, if stretched continuously along, would more than encircle the globe. Again, I shall be told of the cost of this railroad. And what will be its cost? One hundred millions of dollars. A cost not exceeding the revenue of the Government of the United States for two years only-s cost not exceeding the revenue of the Federal and State Governments for one year. One hundred millions of dollars! why we have ffered that sum for one island in the Caribbean sea! One hundred millions of dollars; why New York city spent one-sixth of that sum in supplying itself with water, and grew all the while! One hundred millions of dollars; the State of New York has already spent, in making canals and railroads, one hundred and thirteen millions, and prospered while spending it as never State or nation prospered before. That one hundred millions of dollars, it should never be directly reimbursed, will be indirectreplaced within ten years by the economy which it would enable us to practice in the transportation of the army, and of the supplies of the army and navy over it, value, and developing rapidly the mineral wealth of California, which can be only imperfectly realized now, because labor on that side of the continent is worth four

or a railroad through a foreign country, and inhibit such a work in our own? If there is a right under the Constitution for that, why is there not for this? What new gloss of the Constitution or the resolutions of 1798 invests us with the one power and deprives us of the other? Poa passage through a foreign country, exposed to the hos-tilities of an armed people and of rival nations, than in penceably opening a passage through our own posses-sions, beyond the reach of foreign Powers, and even un-observed by them? But grant that a silver of the penceably opening a passage through our own possesobserved by them! But grant that a railroad can be made through the Isthmus of Tehuantepec; can you manage and control that road, as you demand that Mexico shall permit you to do, without overturning, sooner or later, the States of Vera Cruz and Oaxaca through which it will pass? Can you do that without breaking your treaty obligations to Mexico? No, sir; the national power which controls and manages that road, with only the small States of Vera Cruz and Oaxaca on the route, will soon overcome them. If you take those two States, will you leave the remaining twenty States of Mexico? the other twenty consent to remain out of the American nation, when you have taken the two principal States, and have cut off their communications with the Caribbean sea and the Pacific ocean? Not a day. Will you consent that any body else shall have them? Not you. Will they consent that any body else shall have them? Not they. So you will have Mexico.

Well, before you conclude upon this important matter onsider well whether you have settled the preliminaries and prepared the way for receiving the twenty-two States of Mexico. If you have, pray enlighten me. Will they come in slave States, or will they come in free States! Can you admit them as slave States? Can you take them in aefree States? Can you adjust the balance between slavery and freedom? If not, can you save the Union from convulsion? And if you plunge the Union into convulsion, can you tell me whether you can bring us out in safety? Well, suppose that these preliminaries are all settled. Those States cannot govern termselves now; can they govern themselves hetter after they are supexed to Medical Gazette informs us that in London every third or and prepared the way for receiving the twenty-two States they govern themselves better after they are sunexed to the United States? No. Will you govern them? Pray the United States? No. Will you govern them? Pray fourth person has the grippe, and that in our capital there is tell me how. By admitting them as equals, or by pro-

This is a corollary from the first proposition, and falls with it. Their third proposition is:

"That in the present posture of the question, it is not compatible with the dignity of this Government to prosecute the subject further by negotiation. If Mexico, therefore, shall offered to indicate the dignity of this declined, unless it shall be offered by a would relinquish the Garay grant, but she has offered based upon our own terms."

This is a corollary from the first proposition, and falls in the humiliation to which you have brought Mexico to bring compunction to your heart. Here it is: Mexico to bring compunction to your heart. Here it is: Mexico to bring compunction to your heart. Here it is: Mexico to bring compunction to you this very right on the condition that you would relinquish the Garay grant, but she has offered to indemnify—say, to indemnify—the assignees of the Garay grant for per mining them in as States, here you settled the question.

This also is a corollary from the first proposition, and falls in the humiliation to which you have brought Mexico to bring compunction to your heart. Here it is: Mexico to bring computation, the humiliation to which you have brought Mexico to bring computation to which you have brought Mexico to bring consular power? If the one, you must have an army perpetually there to suppress insurrection. If the other, still you must have a standing army in the provinces, ultimately to come back and open the same disastrous drawing the first proposition in the humiliation to which you have to suppress insurrection.

event, she surely must and will do. That time is coming soon enough without hastening it. Why hasten it? You answer that you want a passage across the continent by way of Tehuantepec. Have you not more passages already across your own domain to open than you can open in twenty-five years? Have you not more land already than you can people in fifty years? Have you not more gold and ailver than you can dig in a hundred years? These dangers are real, but only real if precipitated. Time will speedily fill the regions which you already possess with a homogeneous population and homogeneous States; yet even long before that event, so soon to arrive, shall have come, this nation will have acquired such magnitude, such come, this nation will have acquired such magnitude, such consistency, such strength, such unity, such empire, that Mexico, with her one million of whites, her two millions of mixed races, and her five millions of Aztecs and other of mixed races, and her five millions of Aztecs and other aboriginals, can be received and absorbed without disturbing the national harmony, impairing the national vigor, or even checking for a day the national progress.

Wisdom, justice, and magnanimity combine in recommending to us the moderation, the forbearance, the pity which Mexico, exhausted by efforts, simple, sincere, and earnest, at once to imitate our political virtues, and to defend herself against our hostile encroachments, so touchingly implores, and which our faith, plighted amid the ruin of her most precious hopes, and with compunctions on our part, never before and nowhere else betrayed in our diplomacy, so solemnly enjoins.

in our diplomacy, so solemnly enjoins.

I submit the following as a substitute for the resolutions: Strike out all after the word "resolved," and insert: That the United States cannot suspend diplomatic negotia-ions with Mexico without tendering to that Power, or waiting

a reasonable time to receive from it, an offer of arbitration, a cording to the terms of the treaty of Guadalupe Hidalgo.

TWO LETTERS OF FRANKLIN. FROM THE NEW YORK TIMES.

Mrs. John Gough Nichols sends to the London Gentleman's Magazine two original letters of Doctor Franklin. Both have escaped the diligent search of Mr. Jared Sparks; at least, we find neither of them in the Correspondence of Franklin; and the latter is missing from the Diplomatic Correspondence of the Revolution, leaving a hiatus very much to be bewept in that important work. Notwithstanding the levity with which the ghost of Franklin has mingled with the poly-colored spirits of rapperism, the fame of the statesman is vet living, and his relics are yet venerable. So we reprint these letters for the benefit of all concerned.

The first in order is addressed to his bankers, and, if less momentous than its companion, is not without significance:

CRAVEN-STREET, JULY 11, 1769 GENTLEMEN: I have desired Messrs. Freeth, of Biringham, to send one of their corn mills packed up and directed to your care for my son. As I shall probably be abroad when it comes up, being about to make a little tour in France, I beg you would be so good as to receive it, and ship it with Captain Falconer, pay Messrs. Freeth

for it, and charge it to my account.

I shall be farther obliged, not having time to come into the city, if you can send me to-morrow forty guineas.

May I farther give you the trouble of buying for me two lottery tickets, to be sent me with the money; or rather, on second thoughts, keep them, writing a line to Mr. Jonathan Williams, merchant, Boston, acquainting him with their numbers, for they are for him. I am, with much esteem, yours, &c

B. FRANKLIN. To Messrs. SMITH, WRIGHT & GREY,

The second is of more consequence. Those who have turned over the "Diplomatic Correspondence" have noted the absence of several letters that must have passed between the negotiators of the Treaty of Versailles in relation to the ratification. They seemed to have absconded so advoitly as to put seekers for them quite at fault This Gough-Nichols contribution is the most important

PASSY, MARCH 31, 1784.

Sir: We have now the pleasure of acquainting you that the ratification of the Definitive Treaty is arrived here by an express from Congress. You have already been informed that the severity of the winter in America, assembling of the States. As soon as a sufficient number were got together, the treaty was taken into consideration and the resilication researd manimometry. Included you have copies of the proclamation issued on the occasion, and of the recommendatory resolution. The messenger was detained at New York near a month by the ice, which prevented the packet-boat's sailing, otherwise he would probably have been here in February. We are now ready to exchange the ratifications with you, whenever it shall be convenient to you. With great and sincere esteem, we

have the honor to be. Sir, your Excellency's most obedient and most humble servants

B. FRANKLIN, JOHN JAY.

His Excellency DAVID HARTLEY, &c. There was weather for you, seventy years ago! Just fancy, as you read this on a bright February day, the air as mild as May, and the echt of last night's thunder lingering on your ears; fancy, we say, a season long ago, when the harbor was frozen up and Congress was prevented from meeting because of the intense cold. Those revolutionary times certainly tried men's souls.

. An amusing blunder occurs in the few remarks with which the editor of the magazine introduces his two epistolary prizes. Alluding to the latter of the two, he says : It is dated from Passy, near Paris, and addressed to David Hartley, Esquire, who then held some other diplomatic appointment from the United States." Poor old David Hartley, so soon forgotten and disowned at home—posthumously outlawed, as it were. Old Hartley, who used, in the goodness of his heart, and fullness of his friendliness to America, to make speeches in the House of Commons, hours long; dull, prosy, undeniable speeches, the exordiums of which sent half-the House to dinner and the rest not to speak of the still more important benefits of bringing the public domain into cultivation and into increased the Colonists right! Hartley was the victim of the wick-

dollars a day, while it is worth but one here.

I shall be told there are constitutional difficulties and political dangers attending the opening of this railroad stretching across our own country to San Francisco.

Does, then, our Constitution authorize us to make a canal of 1783; and in less than a lifetime afterwards is rejected to the country and inhibit such a country was and table to the country and table to the country was a second to the American cause recommended him to his Government as a proper person to treat with the Colonial agents at Versailles. He was sent thither as the country and the country of the time have something to say of him. ed of his countrymen and set down as a person "holding some other diplomatic appointment from the United States." And the very pinnacle of the offence is that Sylvanus Urban, gent., is the offender; an authority which, upon all matters relative to English history and anticontinuous transfer of the control of the offender. and Jay

Major WILLIAM WILLIS, a soldier of the revolutionary war, died at Union, Monroe county, on the 28th ultimo. in his 99th year. A brief biographical notice of his death, in the Farmers' Friend, states that he beheld the first flow of American blood and the sacrifice of the first martyrs to our liberties, at Lexington, in 1775. He was afterwards at Concord and Bunker Hill, where he fought bravely. He subsequently became the commander of privateer, in which position he had an eventful time Among the incidents of his command was a muting, which he suppressed after a fearful struggle, in which he was engaged hand to hand with the leader of the matineers, a man of great personal strength. After the war, he was elected a representative to the Massachusetts Legislature, and successively held the post of Consul to Barcelona, under Washington, and consul to Venice, under Adams. Later in life he resided in Charleston, where he met with reverses in commercial pursuits, and was in-duced by a warm personal friend to retire with him to the

Medical Gazette informs us that in London every third or